



Right to know

requests@righttoknow.ie

Our Reference - DOJ-FOI-2018-0115

Dear Sir/Madam

I refer to your request under the Freedom of Information Act 2014 for records held by this Department. You have requested access to the following records –

1. - a copy of the email from Dale Sunderland to George B Trimble dated 16 January 2017 13:31
2. - a copy of the "New Code of Practice for Community Based CCTV systems" mentioned in that email;
3. - a copy of the email from Nuala NiMhuircheartaigh to Dale Sunderland dated 16 May 2018
- 4.- a copy of the response email from Dale Sunderland to Nuala NiMhuircheartaigh dated 28 May 2018 14:15

Decision

A decision was made by Mr. Mark Doyle a Higher Executive Officer in this Department who has decided to part grant your request. A list of the records referencing your request are itemized in the attached schedule and those records are also attached.

Right of Appeal

You may appeal this decision by writing to me at the above address seeking an internal review of the matter. Please refer to this decision in your letter. You must make an appeal within 4 weeks of receiving this letter, but making a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of staff of the Department and the decision will be communicated to you within 3 weeks.

Please note on making an appeal in relation to non-personal records under the FOI Act 2014 to this Department, a fee of €30 must accompany your application. A reduced fee of €10 applies if you are covered by a medical card, in which case you should supply details of the medical card registration number and issuing health board together with your consent to the verification of these details with the relevant health board. An appeal request cannot be accepted until the above fee is received. Payment should be made by way of bank draft, money order or personal cheque and made payable to the Department of Justice and Equality. Should you wish to make a payment by electronic means please email foi@justice.ie for details on how to do this.

Yours sincerely



Aisling Brennan
Freedom of Information Officer
12 December 2018.

Schedule of Records

DOJ-FOI-2018-0115

Record No.	Date of Record	Brief Description	No. of Pages	Grant/Refuse	Basis of Refusal; Section of FOI Act
1	16/1/18	- a copy of the email from Dale Sunderland to George B Trimble dated 16 January 2017 13:31	1	Grant -	
2	undated	a copy of the "New Code of Practice for Community Based CCTV systems" mentioned in that email;	1	REFUSE – document already in the public domain at www.justice.ie	
3 - 4	16/5/18	a copy of the email from Nuala NiMhuircheartaigh to Dale Sunderland dated 16 May 2018	2	Grant	
5 - 6	28/5/18	a copy of the response email from Dale Sunderland to Nuala NiMhuircheartaigh dated 28 May 2018 14:15	2	Grant	
7	undated	Letter from Peter Carey CCMA	1	Grant	

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	Dale W. Sunderland/DPC/JSECTOR
	George B. Trimble/JUSTICE@JUSTICE
	Re: Fw: (a) - CODE OF PRACTICE
	16/01/2017 13:31

George

My apologies for the delay in responding with our observations on the new Code of Practice for Community Based CCTV systems.

From a data protection perspective the aims of the code are clear and the role and responsibilities assigned to operators of CCTV systems would appear to be in line with the obligations of Data Controllers under the Data Protection Acts.

In finalising the document you may wish to take account of the following:

- A reference should be included in the introductory paragraph to the legal basis for the scheme - section 38 of the Garda Síochána Act and the applicable SIs - as well as to the Garda Policy and Code of Practice on CCTV in public places.
- The section on 'Definition' sets out what is meant by a 'media storage device'. It would appear from the text of the code that cloud based storage facilities do not come within the definition of a media storage device, however it may be helpful to state this clearly in the code. If such storage services were to be considered an appropriate data storage option, detailed data security specifications would need to be defined to a level acceptable to An Garda Síochána.
- Paragraph 2.4 is somewhat unclear and would benefit from further clarity on what is meant by 'A camera when not is use...'.
- Paragraph 4.2. The Data Protection Commissioner's guidance is that CCTV images should be retained for no more than 28 days unless there are specific, legitimate and reasonable grounds for the retention of images beyond that period.

I hope these comments are helpful. If I can be of any further assistance please let me know.

All the best,

Dale

Refuse

(2)

Code of Practice
available on
www.justice.ie

From: Nuala M. Ni Mhuircheartaigh
Sent: 16 May 2018 17:19
To: Dale W. Sunderland <DW.Sunderland@dataprotection.ie>

(3)

Subject: Community CCTV and proposed informal meeting with LGMA/CCMA members

Dale

I refer to our initial discussion earlier this month in relation to the question of data controllers in the context of CCTV.

As you are aware, the Department administers a grant-aid scheme to assist groups in the establishment of community-based CCTV systems in their local areas. It is intended that the scheme will run for 3 years with funding of some €1 million being made available each year. Under the scheme, eligible community groups can apply for grant-aid of up to 60% of the total capital cost of a proposed CCTV system, up to a maximum grant of €40,000. As you know, the Office of the Data Protection Commissioner, An Garda Síochána, the Office of the Attorney General were all consulted in establishment of the scheme; as were relevant organisations such as the LGMA.

Our clear understanding of the legislative framework is that any proposed community CCTV system (regardless of whether or not grant funding is sought from the Department to assist in their establishment) must—

- be approved by the local Joint Policing Committee,
- have the prior support of the relevant Local Authority, which must also act as Data Controller as set out in the Garda Síochána (CCTV) Order 2006 (S.I. No. 289 of 2006), for the establishment of community CCTV systems generally, and
- have the authorisation of the Garda Commissioner in accordance with Section 38 of the Garda Síochána Act 2005.

Further, it is an explicit requirement of the grant-aid scheme that recipients of grants comply with all relevant legal and regulatory requirements, including data protection law (see e.g. para 3.7, General Conditions of Grant; Code of Practice; Sections 4 and 7 of the Guidelines all available at <http://www.justice.ie/en/JELR/Pages/Community-Based-CCTV>)

The Department is receiving applications and a regular flow of enquiries in relation to the scheme from interested groups, including local authorities.

However we have also received some communications querying the necessity for or appropriateness of local authorities acting as data controller. In that regard, attached for your information please see a letter from the County and City Managers Association (CCMA) relating to the role of data controller and which refers to your office.

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We are now considering informally meeting with relevant parties from the LGMA and CCMA, to resolve any queries they may have in relation to administration of the grant-aid scheme. However as discussed it would be very helpful if it were possible for the Office of the Data Protection Commissioner to also be represented at a possible informal meeting of that kind.

I would be happy to discuss the matter further if helpful.

Thanks in advance for your consideration and best wishes

Nuala

Nuala Ní Mhuircheartaigh | Principal Officer | Policing Division | Department of Justice and Equality | 51 St Stephen's Green, Dublin 2 |

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www.justice.ie |

* nmnimhuircheartaigh@justice.ie | ::



- 180219 Ltr to Sec Gen re Community CCTV.pdf

From: Dale W. Sunderland
Sent: 28 May 2018 14:15
To: Nuala M. Ni Mhuircheartaigh <NMNiMhuircheartaigh@justice.ie>

(5)

Subject: RE: Community CCTV and proposed informal meeting with LGMA/CCMA members

Nuala

I refer to your email of 16 May and your request that the Data Protection Commission attend an informal meeting convened by the Department with the LGMA and CCMA.

We have considered the request and have concluded that our presence at the meeting would serve little purpose as the principal matter to be addressed, which we understand relates to which entity should act as the data controller for Community CCTV schemes, cannot be resolved by the DPC. In accordance with the definition set out in the data protection law enforcement Directive, transposed into Irish law by the Data Protection Act 2018, the designation of controller falls on a "competent authority that, whether alone or jointly with others, determines the purposes and means of the processing of personal data, or where the purposes and means of the processing of personal data are determined by the law of the European Union or otherwise by the law of the State, a controller nominated (i) by that law, or (ii) in accordance with the criteria specified in that law." Therefore, the designation of Data Controller for community CCTV schemes is a matter for assessment and determination by the bodies concerned (DJE, AGS and the local authorities) in accordance with the facts as they pertain and the applicable legislative provisions.

For the purpose of clarity, I should emphasise that the DPC is not querying nor have we any current concerns regarding the legislative underpinning of community CCTV systems. The matters we have signalled into which we will be conducting an investigation later this year relate to the operation and governance of community schemes particularly in terms of security, access and use of CCTV footage, as well as the role out of new CCTV related technologies.

You should also be aware that as most recently as last week we have communicated with the local authorities via the LGMA and we have asked that any future comments to the media would accurately reflect the DPC's position on this matter.

Kind regards and best wishes,

Dale

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Cosanta Sonrai
Data Protection
Commission

Dale Sunderland

Deputy Commissioner

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DO2 RD28, Éireann.

Data Protection Commission

21 Fitzwilliam Square, Dublin 2,
D02 RD28, Ireland



(7)

Cumann Lucht Bainistíochta Contae agus Cathrach
County and City Management Association

Ms Oonagh McPhillips
Secretary General
Department of Justice and Equality
51 St Stephen's Green
Dublin 2
D02 HK52

COMMUNITY CCTV – DATA PROTECTION

Dear Ms McPhillips

As you may be aware, the County and City Management Association (CCMA) has been engaging with your department in relation to the rollout of Community CCTV.

Under the scheme, the local authority is designated as the Data Controller for Community CCTV. The representatives of the CCMA raised concerns relating to the role of the local authority as Data Controller under the scheme in the context of GDPR. We were subsequently advised by representatives of the Office of the Data Protection Commissioner that they too have concerns in relation to the integrity of data protection for Community CCTV. We understand that this issue is currently being reviewed by the Office of the Data Protection Commissioner, An Garda Síochána and the Attorney General's Office. In the interest of prudence, the CCMA is requesting that the rollout of the scheme is paused until these issues are resolved. We recommend that the relevant parties, including your department and the CCMA, conduct a review of appropriate data protection governance for Community CCTV, that ensures the integrity of the system, enhances the security of communities and represents the most expedient and robust approach to data protection in the context of GDPR.

Representatives of the CCMA would be glad to meet with officials of your department to progress this. We do not intend to delay the rollout of the programme however, I trust you agree that, it is important for the integrity of the Community CCTV initiative that data protection obligations are satisfactorily addressed.

Yours sincerely

A handwritten signature in black ink, appearing to read "P.J. Anne O'Kelly".
Peter Carey
Chair CCMA